

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

In the Matter of: OFFSHORE AIR

FAA Order No. 2002-18

Docket No. CP98NM0025

Served: June 18, 2002

**PETITION FOR RECONSIDERATION
OF FAA ORDER NO. 2002-7 DISMISSED¹**

On May 16, 2001, the Administrator issued FAA Order No. 2001-4, affirming the ALJ's initial decision for the most part, but reversing his finding that Offshore had violated 14 C.F.R. § 135.251 and 14 C.F.R. Part 121, Appendix I, §§ V.A.1 and 3 (1996) by failing to conduct pre-employment drug testing on Robin Watson.² The Administrator reduced the \$10,000 civil penalty assessed by the ALJ to \$7,500.

Offshore petitioned the Administrator to reconsider her order. Offshore, however, filed its petition for reconsideration late and failed to demonstrate good cause for the lateness. The Administrator, as a result, in FAA Order No. 2002-7, dismissed Offshore's petition for reconsideration as late-filed. The Administrator noted further, in dictum, that "even assuming that the petition for reconsideration was not subject to dismissal for untimeliness, it could be denied because Offshore has presented no arguments warranting modification or reversal of FAA Order No. 2001-4." FAA Order No. 2002-7 at 3.

Offshore remains dissatisfied with the Administrator's decisions in this matter, and has filed a document titled "Petition for Review and Dismissal," apparently seeking reconsideration of both previous orders by the Administrator, FAA Order Nos. 2001-4 and 2002-7. Offshore's latest petition is rejected.

Preliminarily, it should be noted that the Rules of Practice in Civil Penalty Proceedings do not provide for a petition for reconsideration of an order dismissing or denying a petition for reconsideration. While it is possible that under certain limited

¹ The Administrator's civil penalty decisions, as well as indexes of the decisions, the Rules of Practice in Civil Penalty Actions, and other information, are available on the Internet at the following address: <http://www.faa.gov/agc/cpwebsite>. In addition, there are two reporters of the decisions: Hawkins' Civil Penalty Cases Digest Service and Clark Boardman Callahan's Federal Aviation Decisions. Finally, the decisions are available through LEXIS, and Westlaw. Additional information is available on the website.

² The Administrator found that Mr. Watson performed services for Offshore during the 60-day "grace period" during which Offshore was not yet required to subject its contractor employees to the anti-drug program. (FAA Order No. 2001-4 at 13.)

circumstances the Administrator might reconsider an order of reconsideration, Offshore has not demonstrated any reason why the Administrator should reconsider FAA Order No. 2002-7. In FAA Order No. 2002-7, the Administrator dismissed Offshore's first petition for reconsideration because it was late-filed. In its latest petition, Offshore does not address the question of the timeliness of its first petition for reconsideration. Instead, Offshore seeks to have the Administrator reverse aspects of FAA Order No. 2001-4. Offshore, however, in essence forfeited its opportunity to make such arguments on the merits of FAA Order No. 2001-4 because it filed its first petition for reconsideration in an untimely fashion. Offshore has shown no reason why it should be granted a second bite at the apple so to speak. The arguments that Offshore presents, moreover, are merely repetitious of arguments previously raised at the hearing and on appeal.

In light of the foregoing, Offshore's latest petition is dismissed.

JANE F. GARVEY, ADMINISTRATOR
Federal Aviation Administration

VICKI S. LEEMON³
Manager, Adjudication Branch

Issued this 18th day of June, 2002.

³ Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202 (*see* 57 Fed. Reg. 58,280 (1992)) and redelegated by the Assistant Chief Counsel for Litigation to the Manager, Adjudication Branch, by Memorandum dated August 6, 1993.